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REMARKS

Claims 1-105 are currently pending in the subject application and are presently under consideration. Applicants' representative acknowledges with appreciation allowance of claims 33-51, 57-74, 80-98, and the indication of claims 99-105 as being allowable subject to correction of a phrase therein. Independent claim 99 has been amended and placed in allowable condition as discussed below.

Moreover, Applicants' representative thanks the Examiner for courtesies extended during the telephone conference of June 30, 2004 regarding the subject application, where it was noted that the limitations of "the wireless shopping device operates in one of a store mode and an out of store mode" and "the host with a messaging agent" further clarifies the claimed invention, to recite allowable subject matter. Accordingly, independent claims 1, 10, 22, 52, and 75 have been amended, and it is believed that the subject application is in condition for allowance.

Favorable reconsideration of the application is requested in view of the comments below.

I. Objection to Claim 99

Claim 99 is objected to because of the phrase "the improvement comprising". Such phrase has been removed from the preamble of this claim, and withdrawal of the objection is respectfully requested.

II. Rejection of Claims 1-7, 22, 23, 26, 28-32 Under 35 U.S.C. §102(b)

Claims 1-7, 22, 23, 26, 28-32 stand rejected under 35 U.S.C. §102(b) as being anticipated by Gupta *et al.* (US Patent 5,361,871.)

Withdrawal of this rejection is respectfully requested for at least the following reasons. Gupta *et al.* does not teach or suggest the claimed invention.

For a prior art reference to anticipate, 35 U.S.C. §102 requires that "each and every element as set forth in the claim is found, either expressly or inherently, in a single prior art reference. In re Robertson, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950 (Fed. Cir. 1999) (quoting *Verdegaal*

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Bros., Inc. v. Union Oil Co., 814 F.2d 628, 631, 2USPQ2d 1051, 1053 (Fed. Cir. 1987)).

The subject invention as claimed, in part relates to an interactive shopping/marketing system that employs a central host computer in communication with data collecting devices, and which also communicates with third party servers (*e.g.*, vendors, merchants and the like). The *central* host computer includes a messaging agent that can display selected messages to a customer. Moreover, the shopping device of the claimed invention can be set to one of an in store mode and an out of store mode, to facilitate the shopping experience of a customer.

Such aspects of the claimed invention are not taught or suggested by Gupta *et al.* – Rather, Gupta *et al.* discloses a *plurality* of product information units, each having a single board micro-computer with data base memory, to be supplied for *each* shopper. No communication of a *central* host computer with data collection devices as in applicants' claimed invention is taught or suggested by Gupta *et al.* Gupta *et al.* discloses a product information system, wherein product information is stored in the memory of bar code scanners, and at the cashier's counter the products to be purchased are re-scanned and compared to the initial scan of the user. The units are then retrieved and updated with new pricing information. In particular, column 8 lines 46 to column 9 line 1 of Gupta *et al.*, as noted in the Office Action, refers to a bar code scanner, as part of (and in communication with) a product information unit of each shopper – not in communication with a central host computer that also communicates with third party servers (*e.g.*, vendors, merchants and the like), as in applicants' claimed invention, wherein, for example, messages by vendors can be selectively presented to the customer *via* the messaging agent.

Independent claim 1 recites: "a wireless shopping device that operates in one of a store mode and an out of store mode [...] a central host [...] in communication with the data collecting device *via* an intermediate consumer presentation device, [...] the central host with a *messaging agent* that selects messages to be presented to a customer". Similar limitations appear in independent claim 10, 22, 52, and 75. It is readily apparent that such aspects of the claimed invention are not taught or suggested by Gupta *et al.*

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In view of the at least above comments it is respectfully submitted that Gupta *et al.* does not teach or suggest the subject invention as recited in independent claim 1, independent claim 22, claims 2-7, and claims 23, 26, 28-32 that respectively depend therefrom, and this rejection should be withdrawn.

III. Rejection of Claims 8-21, 24, 25, 27, 52-56, and 75-79 Under 35 U.S.C.

§103(a)

Claims 8-21, 24, 25, 27, 52-56, and 75-79 stand rejected under 35 U.S.C. §103(a) as being obvious over Gupta *et al.* Withdrawal of this rejection is respectfully requested for at least the following reasons.

Claims 8, 9 depend from claim 1, and as explained *supra* Gupta *et al.* does not teach or suggest the subject independent claim. Independent claim 10 and claims 11-21 dependent therefrom recite a similar limitation of "a wireless shopping device that operates in one of a store mode and an out of store mode [...]" and a "messaging agent [...]" Also, claims 24, 25, 27 depend from independent claim 22, and as explained *supra* Gupta *et al.* does not teach or suggest this independent claim. In addition, independent claim 52 and claims 53-56 dependent therefrom recite a limitation of "a shopping device that operates in one of a store mode and out of store mode having [...]" and "a messaging agent with a message selector [...]", and as explained *supra*, such features are not taught or suggested by Gupta *et al.* Similar limitations are recited in Independent claim 75 and claims 76-79 dependent therefrom.

In view of the at least above comments it is respectfully submitted that Gupta *et al.* does not teach or suggest the subject invention as recited in claims 8-21, 24, 25, 27, 52-56, 75-79, and this rejection should be withdrawn.

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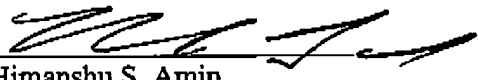
CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,
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